

A4R  
8. L33  
v19/9  
copy 2



South Carolina House of Representatives

# Legislative Update

David H. Wilkins, Speaker of the House

---

Vol. 19

March 5, 2002

No. 09

S. C. STATE LIBRARY

JAN 16 2003

STATE DOCUMENTS

## CONTENTS

WEEK IN REVIEW .....	02
HOUSE COMMITTEE ACTION .....	11
BILLS INTRODUCED IN THE HOUSE THIS WEEK .....	16

OFFICE OF RESEARCH

Room 213, Blatt Building, P.O. Box 11867, Columbia, S.C. 29211, (803) 734-3230

than one hundred thousand dollars, and/or imprisoned not more than ten years. All property or resources pertaining to a violation is considered contraband and is subject to forfeiture. Conditions similar to the procedures used for the confiscation of property in drug trafficking offenses are established for the seizure of such property and resources and for their subsequent use or sale.

The bill provides that it is unlawful for a terrorist organization or any person, in furtherance of terrorism, to damage, destroy or interfere with public infrastructure by using weapons of mass destruction, arson or interfering with, disabling or incapacitating a person or operator of a component of public infrastructure with the intent to endanger the public's safety. A person who violates this provision is guilty of a felony and, upon conviction, must be imprisoned not more than thirty years or for life without parole.

The bill provides that it is unlawful to interfere with private or public mass transportation with the intent to cause bodily injury. A person who violates this section is guilty of a felony and, upon conviction, must be imprisoned for not more than ten years.

#### **Death Penalty for Violation of Anti-terrorist Law**

This legislation creates an aggravating circumstance for when the death penalty may be ordered to include a violation of specified laws pertaining to terrorist activities and weapons of mass destruction.

#### **Revisions to Weapons of Mass Destruction Statutes**

The bill revises current provisions pertaining to weapons of mass destruction, so as to make it unlawful for a person to cause sickness and disease by using a weapon of mass destruction or destructive device.

The bill provides that it is unlawful to threaten or attempt to threaten to cause damage, injury, sickness, disease or death or to cause damage or destruction to a building or other property by means of a destructive device.

The bill provides that it is unlawful for a person to knowingly harm or destroy a plot, land, a stream, pond, lake or body of water, a crop, plant or livestock, wildlife or fish by means of the direct or indirect use of a biological, chemical or nuclear weapon of mass destruction with the intent to cause economic or physical harm to a person or damage to property.

The bill provides that it is unlawful for a person to commit an offense using a biological attack, destructive device, weapon of mass destruction, biological or bacteriological weapon if committed incident to or to facilitate an act of terrorism or international terrorism.

The bill specifies those individuals who are exempt from certain restrictions including military and law enforcement officers engaged in lawful activity and

### **Leaves of Absence for State Workers Trained in Disaster Response**

The legislation provides officers or employees of this State who are trained for disaster response by the American Red Cross or whose training is utilized by the American Red Cross a leave of absence not to exceed fifteen days in any one year to engage in training or any other duties requested by the Governor, the American Red Cross, or other state or federal agency without being penalized, but only upon obtaining their supervisor's approval.

### **Tax Credits for Emergency Workers**

The legislation provides that provides that a taxpayer employed in a member of some emergency entity (fire, police, etc.) that is assigned for more than five days by a superior officer to assist in the wake of a terrorist attack may claim a \$25 a day credit against the state income tax up to \$1,000 in a taxable year.

### **Active Duty State Income Tax Exclusion**

The legislation provides that all compensation and benefits earned while mobilized for active duty otherwise subject to the state income tax are excluded from SC gross income of reservists and members of the National Guard if they are called to active duty for "Operation Enduring Freedom" or "Operation Noble Eagle," or both and perform such duty.

### **Free Admission to State Parks for Emergency Workers on September Eleventh**

The legislation allows any law enforcement official, firefighter and emergency medical technician to enter a state park without charge on September 11 of each year upon showing proof of employment with a badge, certification card or other valid credentials.

### **South Carolina 9/11 Scholarship Program**

The legislation creates the South Carolina 9/11 Scholarship Program and will provide a scholarship to any South Carolina resident whose parent or legal guardian who was also a South Carolina resident and died as a result of the terrorist attacks on September 11, 2001, in New York City, the Pentagon and Pennsylvania. This scholarship includes the cost of tuition at any state public institution of higher learning for up to 5 years of full-time undergraduate study.

### **State Day of Remembrance**

The legislation designates September 11 of each year as a State Day of Remembrance.



and exceptions for legal obligations to report abuse or neglect of a child or vulnerable adult, defense of the licensee in a court proceeding, other court proceedings and where a client presents a danger to himself or others. The legislation also adds an exemption from licensure for government employees who perform social work services as long as they are performed within the course of their employment and the employees do not hold themselves out to be social workers.

The House concurred in Senate amendments to **H.3510** and enrolled the bill for ratification. **H.3510**. This bill revises provisions relating to **licensure and regulation of Professional Environmental Systems Operators**, so as to conform them to the statutory organizational framework for boards under the administration of the Department of Labor, Licensing and Regulation. The bill further provides for the licensure and regulation of environmental systems operators; and among other things, to expand the number of well driller license types and to organize these licenses into well construction categories; to provide for bonding requirements for the practice of well drilling; to eliminate percolation test technician licensure; to provide for administrative citations and penalties for unlicensed practice and professional misconduct of licensees; to prohibit collection actions by persons drilling wells without a license and to provide for a civil cause of action to plaintiffs to recover payments made for well drilling performed without a license; to expand upon and clarify the grounds for sanctionable misconduct of licensees; to require temporary automatic suspension of a licensee upon conviction of certain crimes; to clarify that the board's jurisdiction over misconduct of licensees includes prelicensure misconduct and actions during licensure but prosecuted after a license becomes inactive; to clarify the privileges and immunities of witnesses, investigators, the board, and others involved in disciplinary actions; to provide for confidentiality of investigations and complainant information; to modify the authority for granting licensure to nonresidents; and to expressly require liberal interpretation of the practice act in favor of environmental protection.

The House approved **S.965**, pertaining to **captive insurance companies**, and enrolled the bill for ratification. This legislation establishes a new category, the special purpose captive insurance company which may only insure the risks of its parent and could provide other insurance and/or reinsurance for other risks as approved by the Director of the Department of Insurance. Requirements are established for the licensure and operation of a special purpose captive insurance company. The legislation establishes the Captive Insurance Regulatory and Supervision Fund for the purpose of providing the financial means for the Director of the South Carolina Department of Insurance to administer captive insurance laws and for reasonable expenses incurred in promoting the captive insurance industry in the State. The fund is composed of ten percent of the captive insurance premiums tax, all fees and assessments received by the department pursuant to the administration of captive insurance provisions, and all fees received by the department from reinsurers who assume risk solely from captive insurance companies. The legislation revises provisions relating to the aggregate taxes paid by a captive insurance company, so as to allow a captive insurance company in its first operating year to pay the minimum premium tax on a prorated schedule.

Legislative Update, March 5, 2002

vessel makes an intervening stop. A person who violates this provision is guilty of a misdemeanor and, upon conviction, must be fined not more than two thousand dollars or imprisoned for not more than one year. The legislation does not apply to State Lottery activities.

The House amended, approved, and sent to the Senate **H.4598**, a bill providing for **Uniform Prudent Investor Act revisions**. This bill revises the Uniform Prudent Investor Act, so as to provide that investments in mutual funds sponsored by affiliated organizations are allowed by the prudent investor rule if the investments meet the criteria of the rule.

The House approved and sent to the Senate **H.4619**, a bill pertaining to the **filing fee for license suspension hearing**. This bill provides that the filing fee for requesting an administrative hearing to challenge a driver's license suspension for refusal to submit to a breath test or registering an alcohol concentration greater than the existing lawful limit is fifty dollars.

The House approved and sent to the Senate **H.4629**, a bill pertaining to **"ecstasy" drug use, possession, and trafficking**. This bill includes 3, 4-methylenedioxymethamphetamine (MDMA), also known as "ecstasy", as a Schedule I controlled substance. The legislation provides penalties for illegally possessing or trafficking in the drug and provides that conveyances used in transporting this drug are subject to forfeiture.

The House amended, approved, and sent to the Senate **H.4728**. This bill revises provisions relating to the **unlawful throwing of body fluids on an employee of a state or local correctional facility** by an inmate, so as to provide that in addition to an inmate, these provisions also apply to a detainee, a person taken into custody, or a person under arrest. The provisions are also expanded so as to apply not only to an employee of a state or local correctional facility but also to a state or local law enforcement officer, a visitor of a correctional facility, or any other person authorized to be present in an official capacity.

The House amended, approved and sent to the Senate **H.4654**. This bill provides that the State Law Enforcement Division must compile annual **statistics on lottery related crimes**. When compiled the annual statistics on lottery related crimes must be published or made readily available to the general public by January fifteenth of each year.

The House approved and sent to the Senate **H.4615**, a bill pertaining to the **filing fee for license suspension hearing**. This bill provides that the filing fee for requesting an administrative hearing to challenge a driver's license suspension for refusal to submit to a breath test or registering an alcohol concentration greater than the existing lawful limit is fifty dollars.

The House amended, approved, and sent to the Senate **H.4419**, regarding **school board member orientation**. The bill provides that the State Department of Education must keep a record of the school board trustees who complete the orientation



that is independent of the school's control as long as the participation does not interfere with the scheduled league games or practices of the school squad or team. Students participating in more than one team in this way must have on file with the school a statement by the student's parent or guardian indicating permission for the student to participate on both teams and signed by the independent coach acknowledging that the student's participation will not interfere with scheduled league games or practices.

The House amended, approved, and sent to the Senate **H.3481**, regarding **rockfish taken from Lake Murray**. This bill provides that during July and August, it is unlawful to retain more than two striped bass (rockfish) per day that are taken from Lake Murray and less than the legal size limit. Currently, the size limit on rockfish taken from Lake Murray is not in effect during the months of June, July, and August.

The House approved and sent to the Senate **H.4795**, a bill relating to the duration of various **securities registrations**. The bill provides that investment advisers, investment adviser representatives, and federal covered advisers are subject to the same registration requirements as broker-dealers and broker-dealer agents. The bill increases a filing fee for investment advisers and federal covered advisers from four hundred dollars biennially to three hundred dollars annually, and increases a filing fee for investment adviser representatives from one hundred dollars biennially to one hundred dollars annually.

## HOUSE COMMITTEE ACTION

### AGRICULTURE, NATURAL RESOURCES, AND ENVIRONMENTAL AFFAIRS

The full Agriculture, Natural Resources, and Environmental Affairs Committee did not meet this week.

### EDUCATION AND PUBLIC WORKS

The Education and Public Works Committee recommitted to subcommittee **S.634**, a bill which requires that the Department of Motor Vehicles **provide selective service registration at the time it issues, renews, or provides a duplicate copy of a driver's license or identification card**.

The committee gave a report of favorable with amendment to **H.4421**. As reported by the committee, this bill **includes provisions for school districts which are designated "Unsatisfactory" pursuant to the Education Accountability Act**. These provisions include but are not limited to: authorizing the state superintendent to

Save the Light, Inc., or another nonprofit fund designated by Save the Light, Inc., for the restoration and preservation of the Morris Island Lighthouse.

- **H.4432** provides for special **"God Bless America" license plates**, which could be produced and distributed after the Department receives at least four hundred prepaid applications for the plate, or a deposit of four thousand dollars from the individual or organization seeking issuance of the plate. The deposit would be refundable once an equivalent amount of license plate fees is collected for that special plate, or would be retained by the Department if the equivalent amount is not collected within four years. The bill requires that the Department must approve a plan to market the plates, and if the Department receives less than three hundred biennial applications and renewals for this special plate, it shall not produce additional special license plates in that series. The fee for this special plate is the regular motor vehicle license fee contained in Title 56, Chapter 3, Article 5 of the *South Carolina Code of Laws*, and a special license fee of sixteen dollars. These funds would be distributed to the Department to defray the DMV's expenses of producing and administering the plates, and remaining funds must be designated for use by the South Carolina National Guard for homeland security.
- **H.4519** allows the DMV to issue **special license plates for 501(c)(8) organizations** without going through the legislative process. The bill also provides that of the fees collected for this plate, a sufficient amount of funds must be distributed to the Department to defray expenses of the DMV in producing and administering the special plates.
- **S.597** also allows the DMV to issue **special license plates for 501(c)(8) organizations** without going through the legislative process. The bill provides that these plates may be issued to owners of private passenger-carrying motor vehicles or light pickups having an empty weight of seven thousand pounds or less (current maximum weight is six thousand pounds) and a gross weight of nine thousand pounds or less registered in their names. The bill also provides that of the fees collected for this plate, a sufficient amount of funds must be distributed to the Department to defray expenses of the DMV in producing and administering the special plates.
- **H.4607** provides for issuance and distribution of **special Rotary International license plates**. The fee for this special plate must be the regular motor vehicle license fee contained in Title 56, Chapter 3, Article 5 of the *South Carolina Code of Laws* and an additional special fee of forty dollars, which must be distributed to the Rotary District in which the purchaser's home club is located in this State. The Department must report to the South Carolina Rotary District designee the district chosen by the license plate issuee to which this fee must be distributed. The bill also requires that sufficient funds must be placed in a special account to be used by the Department to defray the expenses of the DMV in producing and administering the special plate.



The Committee gave a report of favorable with amendment on H.4598, a bill providing for **Uniform Prudent Investor Act revisions**. This bill revises the Uniform Prudent Investor Act, so as to provide that investments in mutual funds sponsored by affiliated organizations are allowed by the prudent investor rule if the investments meet the criteria of the rule.

The Committee gave a favorable report on H.3328, a bill pertaining to the **investigation of a traffic collision involving a law enforcement or department of public safety motor vehicle**. Under this bill, a law enforcement agency that has primary responsibility for an investigation, but lacks expertise to conduct a proper investigation involving an employee of another department or agency, may, under certain circumstances, request assistance from another agency that has the appropriate expertise.

The Committee gave a favorable report on S.826. This joint resolution extends the life of the **Local Jail Task Force** to February 1, 2003, before which date it must make its report. The joint resolution also provides that a person appointed to the Local Jail Task Force before February 1, 2001, shall remain on the task force, unless he resigns or is replaced by the original appointing authority.

The Committee gave a favorable report on H.4615, a bill pertaining to the **filing fee for license suspension hearing**. This bill provides that the filing fee for requesting an administrative hearing to challenge a driver's license suspension for refusal to submit to a breath test or registering an alcohol concentration greater than the existing lawful limit is fifty dollars.

The Committee gave a favorable report on H.4629, a bill pertaining to **"ecstasy" drug use, possession, and trafficking**. This bill includes 3, 4-methylenedioxymethamphetamine (MDMA), also known as "ecstasy", as a Schedule I controlled substance. The legislation provides penalties for illegally possessing or trafficking in the drug and provides that conveyances used in transporting this drug are subject to forfeiture.

The Committee gave a favorable report on H.4728. This bill revises provisions relating to the **unlawful throwing of body fluids on an employee of a state or local correctional facility** by an inmate, so as to provide that in addition to an inmate, these provisions also apply to a detainee, a person taken into custody, or a person under arrest.

The Committee gave a report of favorable with amendment on H.4654. This bill provides that the State Law Enforcement Division must compile annual **statistics on lottery related crimes**. When compiled the annual statistics on lottery related crimes must be published or made readily available to the general public by January fifteenth of each year.

The Committee committed H.3056, the **Domestic Violence Prevention Act**, to the Criminal Laws Subcommittee.



provides that existing facilities incinerating medical waste located in a manner that would violate the provisions of the bill are permitted to remain at that location.

**H.4829 TURTLE EXCLUDER DEVICES Rep. Limehouse**

This bill provides that until federal regulations are amended to increase the escape openings in turtle excluder devices to a certain size, each trawl net using a hard turtle excluder device in the salt waters of South Carolina must have a turtle excluder device opening of not less than thirty-five inches in taut horizontal length and not less than twenty inches in simultaneous vertical taut height or a federally approved leatherback or double cover flap hard turtle excluder device modification.

## **EDUCATION AND PUBLIC WORKS**

**H.4816 TAXICAB DRIVERS Rep. Knotts**

This bill provides that a driver operating a taxicab under a signed independent contractor lease agreement with a company which owns the taxicab and which allows the driver to operate the taxicab as a lessee is an independent contractor notwithstanding *South Carolina Code of Laws* §42-1-130 (which defines "employee" for purposes of the S.C. Worker's Compensation Law).

**H.4817 SCHOOL DAYS MISSED IN LAURENS COUNTY Rep. Taylor**

This bill provides an exemption from the make-up requirement for certain school days missed in Laurens County School Districts 55 and 56 due to inclement weather.

**H.4818 NONPUBLIC POST-SECONDARY INSTITUTIONS Rep. Stille**

This bill makes numerous revisions to the *South Carolina Nonpublic Post-Secondary Institutions License Act*. These revisions include, but are not limited to:

- Adding definitions for "operating or soliciting" and "religious or theological training."
- Revising the current exclusions from the definition of "nonpublic educational institution" so as to include in the exclusions:
  - noncredit bearing courses or programs sponsored by employers solely for the training of their employees if:
    - the training is conducted by an employee of the sponsoring employer or if the sponsoring employer contracts with a provider to conduct the training;
    - the sponsoring employer bears the expense of providing the training by paying the training provider directly, and this provision does not mean paying the employee after the employee pays; and
    - the sponsoring employer allows employees to attend the training on company time if the training takes place during regular work hours;
- Noncredit bearing courses or programs that do not prepare or qualify individuals for employment in any occupation or trade sponsored by

three years and fined not less than five thousand dollars and not more than ten thousand dollars.

**H.4803 LIMITED LIABILITY COMPANIES AND OTHER CORPORATE ARRANGEMENTS** Rep. Lucas

This bill provides for various revisions regarding limited liability companies. The legislation establishes procedures under which various entities may merge with or convert to limited liability companies. The bill creates the new category of Professional Services Limited Liability Company and provides for the operation of such a company. The legislation defines "perpetual company" and establishes provisions regarding such companies.

**H.4807 VIDEO VOYEURISM** Rep. Hamilton

This bill provides a definition for "video voyeurism." The bill provides that harassment includes unlawfully directing or focusing a digital, electronic, laser, heat-seeking, noise-making, listening, or other electronic or mechanical device on another person, his dwelling, or any other place where the targeted person seeks seclusion from public view or has a reasonable expectation of privacy. The legislation establishes related provisions.

**H.4808 DISCLOSURE AND ACCOUNTABILITY REQUIREMENTS FOR ECONOMIC DEVELOPMENT INITIATIVES** Rep. Wilkins

This bill provides that monies constituting a fund of any kind used by the Department Of Commerce, regardless of their source, are public monies subject to all accountability and disclosure requirements governing public monies. The bill provides that funds from foundation grants and private funds used by the Coordinating Council For Economic Development to enhance economic growth and development are public monies subject to all accountability and disclosure requirements governing public monies. The bill revises provisions relating to information exempt from disclosure under the Freedom Of Information Act, so as to provide that a contract for the sale or purchase of property related to efforts to attract or retain business or industry is exempt until the business or industry has publicly announced its project or a final contract has been executed. Information relative to efforts or activities of a public body to attract business or industry to invest in this State are not exempt from disclosure once an offer has been accepted or rejected or has expired.

**H.4819 CHANGE OF NAME** Rep. Vaughn

This bill provides that the clerk of the family court must provide members of the public with forms and instructions sufficient to enable a person not represented by an attorney to petition the family court for a change of name.

**H.4836 PROPOSED CONSTITUTIONAL AMENDMENT ON REGULATION OF ALCOHOLIC LIQUORS AND BEVERAGES** Rep. Cotty

This joint resolution proposes an amendment to the Constitution of South Carolina that would eliminate the detailed requirements for the regulation of alcoholic liquors and beverages and authorize the General Assembly to regulate their sale in containers of such size as the General Assembly considers appropriate.



## WAYS AND MEANS

### **H.4793 REINSTATEMENT OF MEDICAID REIMBURSEMENT Rep. Talley**

This joint resolution reinstates the Medicaid reimbursement for counseling and behavioral health services eliminated by the Department of Health and Human Services pursuant to Medicaid Bulletin dated October 31, 2001. The reinstatement is effective with Medicaid reimbursements paid for these services on or after the effective date of the resolution.

### **H.4802 PAYROLL DEDUCTION FOR DUES OF STATE ASSOCIATIONS Rep. Sandifer**

This bill provides for payroll deduction for dues of members of the South Carolina Wildlife Law Enforcement Officers' Association.

### **H.4805 MUNICIPAL CAPITAL PROJECT SALES TAX ACT Rep. Vaughn**

This bill provides for the imposition of a one cent sales and use tax in a municipality, by ordinance, subject to a referendum, for a specific period of time and for specified projects. The bill provides for the imposition, payment, and collection of this tax.

### **H.4820 DEFINITIONS IN ACCOMMODATIONS TAX ACT Rep. Delleney**

This bill revises the definition of "tourist" for purposes of the Accommodations Tax Act, so as to distinguish between "least developed" counties and other counties. For a county classified as "least developed" or with a higher credit amount classification pursuant to a specified provision regarding the job tax credit, the bill defines a tourist as a person traveling to places outside his home community for any purposes other than daily commutes to and from work.

### **H.4825 DEFINITIONS IN THE MUNICIPAL IMPROVEMENTS ACT OF 1999 AND THE S.C. DEVELOPMENT IMPACT FEE ACT Rep. Limehouse**

This bill amends the definition of "improvements" in the Municipal Improvements Act of 1999 and amends the definition of "public facilities" in the South Carolina Development Impact Fee Act, so as to include public education facilities for grades K-12.

### **H.4828 MEDICARE PRESCRIPTION COST CONTAINMENT ACT Rep. Jennings**

This bill requires that the lowest possible costs including but not limited to rebates, discounts, and promotions from pharmaceutical manufacturers, distributors, and suppliers must be used to establish prescription drug prices for persons receiving Medicare benefits who do not have any other prescription drug insurance coverage, including Medicaid. The bill provides that dispensing fees for these prescriptions must be equal to that charged for persons receiving Medicaid benefits.

### **H.4834 FARMER'S MARKET RELOCATION OVERSIGHT COMMITTEE Rep. Carnell**

This joint resolution creates a Farmer's Market Relocation Oversight Committee to study and make recommendations to the General Assembly in connection with the establishment of a new Columbia State Farmer's Market facility. The bill provides